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QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE

Report on the situation of human rights in the Palestinian territories occupied since 1967, submitted by Mr. Hannu Halinen, Special Rapporteur, pursuant to Commission on Human Rights resolution 1993/2 A

Introduction

1. At its forty-ninth session, the Commission on Human Rights adopted resolution 1993/2 A of 19 February 1993, entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine". In paragraph 4 of that resolution, the Commission decided to appoint a special rapporteur. The resolution was approved by the Economic and Social Council in decision 1993/253 of 28 July 1993.

2. In paragraph 4 of the resolution, the Commission decided to appoint a special rapporteur with the following mandate:

> "(a) To investigate Israel's violations of the principles and bases of international law, international humanitarian law and the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, in the Palestinian territories occupied by Israel since 1967;
>
> "(b) To receive communications, to hear witnesses, and to use such modalities of procedure as he may deem necessary for his mandate;
>
> "(c) To report, with his conclusions and recommendations, to the Commission on Human Rights at its future sessions, until the end of the Israeli occupation of those territories."

3. The former Special Rapporteur, Mr. René Felber (Switzerland), presented reports to the Commission at its fiftieth and fifty-first sessions (E/CN.4/1994/14 and E/CN.4/1995/19, respectively). The current Special Rapporteur, Mr. Hannu Halinen (Finland), presented reports to the Commission at its fifty-second and fifty-third sessions (E/CN.4/1996/18 and E/CN.4/1997/16, respectively).

4. The Special Rapporteur wishes to reiterate the belief that his role is not an accusatory one, but rather has the objectives of establishing a meaningful and constructive dialogue with all the parties concerned and helping overcome problems having to do with human rights concerns in the area. He believes that the exercise of his mandate should prevent violations of human rights and improve the overall human rights situation.

5. During the period under review, the Special Rapporteur met with representatives of Governments, intergovernmental and non-governmental organizations and individuals and received written information from intergovernmental and non-governmental organizations as well as individuals. The Special Rapporteur regrets the lack of cooperation on the part of the Government of Israel. The cooperation of all Governments with international mechanisms is important. In this case it would clearly be in the interest not only of respect for human rights but also of the Government itself.

6. Since the last session of the Commission on Human Rights, the Special Rapporteur availed himself of every opportunity afforded to him to hold both formal and informal discussions on issues related to his mandate, in Geneva, Brussels and the Middle East. Before submitting his report to the Commission, the Special Rapporteur decided to carry out a visit to the occupied Palestinian territories, Israel, Jordan and Egypt from 12 to 22 January 1998, together with a staff member from the Office of the High Commissioner for Human Rights. He visited Jerusalem, Gaza, Hebron, Ramallah, Jericho, Tel Aviv, Amman and Cairo.

7. The Special Rapporteur met in Hebron with the President of the Palestinian Authority, Mr. Yasser Arafat, and discussed issues relating to his mandate. In Gaza, the Special Rapporteur met with Mr. Kamal El-Sharafi, Chairman of the Committee of Oversight and Human Rights of the Palestinian Legislative Council; Mr. Riyad Al-Zanoun, Minister of Health of the Palestinian Authority; Mr. Nabeel Shaath, Minister of Planning and International Cooperation of the Palestinian Authority, and Mr. Said Modalall, Director-General of Employment at the Ministry of Labour of the Palestinian Authority. In Jericho, the Special Rapporteur met with Mr. Saeb Erekat, the Minister for Local Government of the Palestinian Authority. In Ramallah, the Special Rapporteur met with Mrs. Hanan Ashrawi, Minister of Higher Education of the Palestinian Authority. While in Gaza, the Special Rapporteur met with Mr. Peter Hansen, the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), and with Mr. Francis Dubois, Deputy Special Coordinator, Office of the United Nations Special Coordinator in the Occupied Territories (UNSCO). During his visit to the area, the Special Rapporteur met with representatives of United Nations agencies, national and international humanitarian and non-governmental organizations as well as with private individuals.

8. In Jordan, the Special Rapporteur met in Amman with Mr. Ibrahim Badran, Director-General of the Department of Palestinian Affairs, and with Mr. Rajab Sukayri, Director of the Department of International Organizations at the Ministry for Foreign Affairs. While in Amman, the Special Rapporteur also met with Mr. Jorgen Lissner, United Nations Resident Coordinator and Resident Representative of the United Nations Development Programme.

9. In Egypt, the Special Rapporteur met in Cairo with Mr. Amr Moussa, the Minister for Foreign Affairs of Egypt; Mrs. Naila Gabr, Deputy Assistant Foreign Minister for Human Rights; Mr. Gehad Madi, Deputy Assistant Foreign Minister for International Legal Affairs; and with Mr. Mohamed Nosrat, Deputy Assistant Foreign Minister for Palestinian Affairs. While in Cairo, the Special Rapporteur also met with Mr. Esmat Abdel Meguid, the Secretary-General of the League of Arab States. Mr. Said Kamal, the head of the Palestinian Affairs Department of the League of Arab States, was also present. The Special Rapporteur also met with Mr. Nadir Hadj-Hammou, Deputy Resident Representative, United Nations Development Programme.

10. In October 1997, the Special Rapporteur carried out a brief visit to the occupied Palestinian territories in order to acquaint himself with the situation of Palestinian children.

11. In December 1997, the Special Rapporteur attended a conference entitled "Human Rights and the Final Status Issues" in Gaza City.

12. The Special Rapporteur wishes to express his appreciation to Mr. Arafat and the Palestinian Authority for the kind cooperation extended to him in the course of his mission. The Special Rapporteur also wishes to extend his appreciation to Mr. Amr Moussa and the Government of Egypt as well as to the Jordanian authorities for the kind cooperation extended to him during his mission.

13. The Special Rapporteur expresses his sincere gratitude to the High Commissioner for Human Rights and to the United Nations Special Coordinator in the Occupied Territories and the staff of their offices in Gaza for the most efficient logistical and other support provided to the mission.

I. PRINCIPAL CONCERNS REGARDING THE SITUATION OF HUMAN RIGHTS

14. There is a deepening sense of frustration among the people in the Middle East vis-à-vis the peace process. This is understandable, since the success of the process is connected to its results. Also, the Special Rapporteur in his reports has expressed his support for the peace process, stressing that the permanent status negotiations, if and when satisfactorily concluded, would solve many of the gravest human rights problems in the area. There is an urgent need for the revival of the peace process.

15. Yet, the peace process is not an end in itself but just a framework - albeit the main one - in searching for peace. It needs to be reiterated that lasting peace cannot be achieved without respect for human rights. Promotion and protection of human rights is part and parcel of maintaining and

strengthening peace and security and advancing social and economic development. It is in this context that the Special Rapporteur draws attention to the main features of the human rights situation in the area.

16. Terrorism can never be tolerated. Abhorrent acts of terrorism can only destroy the prospects for a just and durable peace. During the period under consideration, terrorist incidents and threats of such incidents once again increased. Measures to prevent terrorism, including training and education, are necessary. But they have to be carried out under all circumstances within the rule of law and respect for human rights.

17. International human rights law and international humanitarian law continue to provide the legal basis for the consideration of the human rights situation. Despite steps taken by both Israel and the Palestinian Authority to improve their record, serious human rights violations occur persistently. It needs to be reiterated that the Israeli occupation of the Palestinian territories, which is the root cause of the violations, remains legally in force, including during the transition period. International humanitarian law, particularly the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, remains therefore fully applicable to and binding on the Government of Israel.

18. Palestinian economic development is a prerequisite for political stability, and therefore the best guarantee of security for Israel, both in the short and the long term. The Palestinians, in exercising their right to economic development, have to have open trade access to the outside world, including Israel. The international community has fully understood the significance of the removal of obstacles to Palestinian economic development. The declining indicators of the Palestinian economy, however, are a clear sign that development is reversing, constituting a growing threat to security.

19. The following paragraphs contain a brief summary of the principal concerns regarding the situation of human rights in the Palestinian territories occupied since 1967. The reason why the Special Rapporteur draws attention to these concerns is to foster respect for human rights; they should not be read as accusatory, but rather in the context of finding ways to overcome them. The report contains less first-hand information than the Special Rapporteur would have hoped to present owing to the lack of a possibility to visit Israel officially. The Special Rapporteur is convinced that more contacts and discussions would enable him to fulfil his mandate in an even more objective and impartial manner.

20. The Special Rapporteur wishes to recall that during his visits to Gaza, East Jerusalem and parts of the West Bank, he was able to obtain valuable written and oral information from intergovernmental, non-governmental and humanitarian organizations as well as from individuals. It has contributed to the insight into the situation which the Special Rapporteur has managed to gain despite the constraints cited above.

21. One of the most serious and persistent sources of concern and tension in the occupied territories brought to the attention of the Special Rapporteur is the approximately 3,500 Palestinian prisoners detained in Israeli prisons and detention centres, in violation of articles 49 and 76 of the Fourth Geneva

Convention. It will be recalled that the Oslo Accords called for the release of Palestinian detainees. Their conditions of detention are reportedly not in keeping with international standards and include poor quality of food in insufficient quantities, inadequate medical treatment and violent suppression of prisoners' protests by the prison authorities. Numerous detainees were reportedly denied access to an attorney as well as family visits. The Special Rapporteur's attention was drawn to the treatment of mentally ill prisoners who are sometimes treated as healthy or placed in solitary confinement, which aggravates their condition. The Special Rapporteur was informed that it is estimated that some 100,000 Palestinians have been in prison since the beginning of the occupation. At present, there are seven female Palestinian prisoners.

22. The number of administrative detainees has risen significantly during the period under review. There are currently some 500 Palestinian administrative detainees. The majority of the detainees have had their detention renewed, many of them more than once. The Special Rapporteur was informed that the detention order of one particular detainee, who has spent 5½ years in jail, has been renewed 12 times. Children under 18 have also been placed in administrative detention, in violation of article 37 (b) of the Convention on the Rights of the Child which Israel ratified in 1991.

23. The Special Rapporteur was informed about the issuing of a new military order in September 1997 allowing Israeli forces to arrest persons in Area A under the jurisdiction of the Palestinian Authority which includes the Gaza Strip. For the first time since 1994, there is an administrative detainee from the Gaza Strip.

24. There are reportedly up to 1,200 persons held in administrative detention by the Palestinian Authority. Allegedly, a total of 14 detainees have died while in detention. The complex legal system, lack of legislation and insufficient training and education have contributed to this situation.

25. The treatment of Palestinian detainees held on suspicion of alleged security offences during the period of interrogation is cause for serious concern. The administrative guidelines followed by the Israeli General Security Service as defined in the confidential Landau Commission Report permit the exercise of "moderate physical pressure" which amounts to torture. They have been endorsed on several occasions by Israel's High Court of Justice, on a case-by-case basis. Methods of interrogation include hooding, sleep and food deprivation, position abuse, exposure to very loud music and extremes of cold and heat as well as violent shaking of the prisoner which leaves no visible traces but can lead to permanent incapacitation or death. In 1997, the United Nations Committee against Torture indicated that such interrogation methods constituted breaches of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by Israel in 1991. International law absolutely prohibits torture and no exceptional circumstances whatsoever, whether a state of war or threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture. The Committee recommended that any methods of interrogation that are in conflict with the provisions of articles 1 and 16 of the Convention cease immediately.

26. The Special Rapporteur was told that torture and ill-treatment of Palestinian detainees in Israeli prisons and detention centres were so systematic that people did not fully realize what kind of treatment they were being subjected to.

27. The Special Rapporteur's attention was drawn to the situation of former prisoners who have undergone torture during their incarceration. They suffered from psychosocial consequences such as chronic post-traumatic stress, depression, paranoia, social avoidance and anxiety. Many behaved in a violent manner with their wives and children. It is estimated that some 50,000 children in the Gaza Strip suffered from such behaviour which was reflected in contact disorders such as inability to relate to parents, teachers and other children. It is estimated that 38 per cent of such children aged between 6 and 12 suffer from moderate to severe post-traumatic stress disorder. These emotional disorders have long-term effects, make children more aggressive, disobedient and violent, affect their dignity and lower their self-esteem. It is believed that the hatred of children towards the treatment meted out to their fathers as well as to the families visiting prisoners by the Israeli authorities will itself be perpetuated later on by those same children.

28. The Special Rapporteur was informed that all prisoners tortured in 1997 suffered from mental problems. Some had neurological and orthopaedic problems as well.

29. Torture and ill-treatment in the detention centres under the control of the Palestinian Authority have reportedly continued due to the pressure said to be placed on the Authority to deal with its own and Israeli security concerns.

30. The Special Rapporteur met in Gaza with a number of former detainees and with the mothers and relatives of Palestinian prisoners. He was informed about the economic and social hardships suffered by the prisoners' families, especially if they were the principal breadwinners, which also negatively affected family cohesion. The relatives complained of frequent transfers of prisoners in Israel which made family visits even more difficult. The Special Rapporteur was told that some 100 prisoners did not receive family visits at all because they do not have living close relatives or because the relatives eligible to visit them could not obtain security clearance. After often humiliating searches, relatives would be allowed in groups of 10 at a time to spend 45 minutes with the prisoners. The Special Rapporteur was informed that 55 per cent of Palestinian prisoners in Israeli jails belonged to the Fatah movement.

31. The Special Rapporteur was informed that more than 50 per cent of the Palestinian population is under 15 years of age. The situation of children cannot be separated from the overall situation of human rights in the occupied territories. The occupation has had and continues to have detrimental effects on the development of children who have been conditioned by the situation of violence and have become victims of social, economic and psychological circumstances. Many Palestinian children are described as "growing up before their time". It is estimated that one third of those killed during the intifada were children. Children have continued to suffer in confrontations between Palestinians and the Israeli Defence Forces: some 70 per cent of

persons injured during the clashes which broke out in Hebron in June 1997 were children. The occupation has also led to a virtual dismantling of the social infrastructure. The weakening of the family structure has led to a rise in juvenile delinquency.

32. The Special Rapporteur was told that there were currently between 70 and 90 Palestinian children in Israeli prisons. They were reportedly subjected to the same treatment as adults, including during interrogation. Some are reported to have been denied access to lawyers and family visits. It has been reported that children have also been placed in administrative detention and that there are currently some five to seven child administrative detainees, some of whom have had their detention orders renewed. The Special Rapporteur was alerted to the fact that detention of children alters their value systems and may have grave repercussions on their future psychological well-being.

33. The Special Rapporteur was informed about the vulnerable position of women in Palestinian society, which was very often rooted in traditions as well as the attitudes of both secular and religious leaders and for which blame could not be placed on the Israeli occupation. Owing to the application of the prevailing laws, their position was described as difficult in cases of divorce and child custody, early marriage, as well as in relation to offences regarding honour. In addition, women and girls are often the first victims of domestic violence as wives and daughters of former prisoners suffering from psychological disorders, or of workers unable to go to Israel and provide income for their families. Suicide rates among women are said to be on the rise.

34. The Vienna Declaration and Programme of Action confirmed the human rights of women and of the girl child to be an inalienable, integral and indivisible part of universal human rights. Furthermore, it set as priority objectives of the international community the full and equal participation of women in political, civil, economic, social and cultural life, as well as the eradication of all forms of discrimination on grounds of sex. The principle of equality is inherent in the Universal Declaration of Human Rights. The Declaration also refers specifically to the family and marriage (article 16), owning property (article 17), motherhood and childhood (article 25), and equal access to (also higher) education (article 26). The principles enshrined in both documents are relevant in the Palestinian territories and intensified work is needed to fully implement them.

35. An increase in malnutrition has been registered among pregnant women and pre-school age children who are suffering from iron and iodine deficiencies which can cause slow mental development.

36. The Special Rapporteur was informed that the situation in the occupied territories had worsened in a number of areas since the signing of the Oslo Accords and that there was no more trust in the peace process. One of the principal causes of this deterioration was the repeated closures of the occupied territories, which constitutes collective punishment of the population, in particular after security incidents such as those which took place in Israel in March and July 1997. The impact of the closing of borders between Israel and the occupied territories has been aggravated by the

so-called internal closures of Palestinian agglomerations as well as of international borders with Jordan and Egypt. The Special Rapporteur was told that there were 77 days of closure of the occupied territories in 1997. Closures have severely restricted the freedom of movement of Palestinians between parts of the occupied territories as well as their access to Jerusalem. For example, the internal closure of Bethlehem for more than one month caused a 50 per cent decline in the number of births taking place in medical facilities there.

37. The closures have led to a further deterioration of the economic situation and a rise in unemployment. The persistently high unemployment has resulted in the increased incidence of child labour and a concomitant decline in the importance accorded to education. The dropout rate has risen significantly. The Special Rapporteur was informed that 25 per cent of the children who entered the labour force were the sole breadwinners in their families. The lack of income and inability to buy food during the closures of the occupied territories have reportedly led many Palestinian families to eat only one meal a day and significantly reduce their intake of protein. Some 56 per cent of families were forced to borrow money during the closure in order to buy food. The reduced protein intake has resulted in a greater incidence of rickets and anaemia in children. The Special Rapporteur was told that the average worker supported 7 to 10 persons, a number which sometimes rose to 20 during the closures of the occupied territories.

38. It should be recalled that the safe passages between parts of the occupied territories foreseen under the Oslo Accords have not been implemented to date although the Gaza Strip and West Bank constitute a single territorial unit under that agreement. The Special Rapporteur's attention was drawn to the particular hardships faced by the inhabitants of the Gaza Strip during the closures of the occupied territories by the Israeli authorities: only persons with work permits are allowed to leave Gaza which is not the case with the inhabitants of the West Bank. The Gaza Strip has been described by Palestinians as a large prison.

39. In addition to employment, closures have continued to have a negative impact on the overall economic situation in the occupied territories, especially in the Gaza Strip. Factories have been closed for lack of raw materials and access to export markets and construction has come to a halt. Nevertheless, the Special Rapporteur was informed that although agricultural produce from Gaza could not be exported to Israel for alleged security reasons, this did not affect the products of branches of Israeli companies in Gaza.

40. The Special Rapporteur's attention was drawn to the problem of fishermen in Gaza which affects an estimated 5,000 families. In addition to being allowed to fish only 12 miles from shore instead of the 20 miles stipulated in the Oslo Accords, fishermen complained that the Israeli forces consider the sea as a border-crossing and impose a ban on fishing during closures of the occupied territories. The Special Rapporteur was told that Israeli forces often harassed and fired at fishermen, detained them for long periods, shot at or sunk their boats and destroyed their nets.

41. Closures have a particularly adverse cumulative effect on children. The Special Rapporteur was told that post-traumatic effects were easier to document than the hidden effects of the closure. He was given the example of curfews which were frequently imposed on the occupied territories in the past and which adversely affected the relationship of small children with their parents. The current situation was described as being worse than before the peace process. The situation of the population in the occupied territories was described as an "addiction to trauma", with the breaking point very near.

42. The closure has also resulted in the destruction of the image of authority figures such as headmasters or teachers who have on occasion been arrested in a humiliating way by the Israeli forces when their permits had expired. Gazan schools also suffer from overcrowding: children have to go to school in two shifts, sometimes up to 59 in a single class. Numerous children are said to have left school owing to their families' deteriorating economic situation and reportedly work in factories, as street vendors, or collect old newspapers.

43. The Special Rapporteur's attention was drawn to the fact that a number of children in rural areas of the West Bank as well as in Area A have been killed by landmines left by the Israeli army in military training areas.

44. The Special Rapporteur was informed that there were no deaths of Palestinians at Israeli checkpoints or at border-crossings and that there were no major problems with the passage of medicine. Permits were automatically issued to medical staff in the occupied territories who make up 64 per cent of the personnel of hospitals serving Palestinians in East Jerusalem. However, the problem of patients whose treatment was delayed remained. The Special Rapporteur's attention was drawn to the delay in transporting Palestinian patients from East Jerusalem to other medical facilities since the Israeli ambulances waited for an escort before entering that part of the city. On the other hand, Palestinian ambulances are reported rarely to obtain the permission of the Israeli Health Ministry to install siren and radio systems, for security reasons.

45. The Special Rapporteur was informed that the Israeli Parliament was to adopt a law that would deny compensation to Palestinian victims who were injured or surviving family members of those who were killed during the intifada. The reason given by the Israeli authorities is that the deaths were caused by activities linked to war; this amounts to considering the Palestinian civilian population as combatants. Compensation is the only way victims of human rights violations are able to obtain redress and for many it is the only way for victims to pay for the medical treatment needed for their injuries. In addition to widening the scope of what constitutes combatant activity, the adoption of such a law would further reduce the accountability of Israeli security forces for human rights violations perpetrated against the civilian population of the occupied territories. Articles 7 and 8 (concerning equal protection of the law and effective remedy) of the Universal Declaration should be recalled in this connection.

46. Possibly the single most preoccupying factor which has exacerbated the situation of human rights in the occupied Palestinian territories is the increased construction and expansion of Israeli settlements and bypass roads.

A turning point in this regard was the decision by the Israeli Government on 26 February 1997 to construct a settlement on Jabal Abu Ghneim in East Jerusalem, to be called Har Homa. Construction work on the settlement - the first new settlement to be built since the lifting of the freeze imposed on new settlement construction by the previous Labour Government - began on 18 March 1997. (In any case, despite the so-called freeze, a 43 per cent expansion in settlement activity was reported during the Labour Government.) Together with the recent announcement of plans to build a Jewish settlement in the Ras El Amud neighbourhood of East Jerusalem, Har Homa would complete the chain of Israeli settlements surrounding East Jerusalem, thereby preventing Palestinian territorial continuity. It has been alleged that the construction of at least seven new settlements had begun since the current Israeli Government took office. The Special Rapporteur was also informed about the opening of new stone quarries, in particular since the signing of the Oslo Accords, which caused considerable environmental damage in the occupied Palestinian territories.

47. The expansion and building of settlements and bypass roads implies confiscation of substantial areas of Palestinian-owned land. The Special Rapporteur was informed, however, that approximately 25 per cent of the housing units in existing settlements were unoccupied. The master plans of settlements were reportedly reviewed every three to five years. The Special Rapporteur was informed that the Israeli authorities had plans for greater Jerusalem that included annexing to the city the ring of settlements surrounding it, encompassing territory up to the city of Ramallah, and expanding further the Maaleh Adumim settlement. If expanded, Maaleh Adumim would have an area of some 60 square kilometres, making the settlement larger than Tel Aviv, although it houses only 20,000 inhabitants. The Bedouins living around Jerusalem have been particularly affected by land confiscation. It is estimated that more than 15,000 Bedouins are threatened with eviction from sites which they currently inhabit, without even being given alternative sites in which to settle by the Israeli Civil Administration. The Special Rapporteur was told that the current policy of eviction and land confiscation would ultimately render Area C and, gradually, Area B empty of Arabs. The Israeli settlement policy was described as a well-planned tool of annexation which would lead to a "Bantustanization" of Palestinian territory into territorially unconnected enclaves. During his visit to the Gaza Strip, the Special Rapporteur was able to visit the Mawasi area near Khan Younis which is cut off from that city and is completely surrounded by settlements.

48. In its resolution ES-10/2 of 25 April 1997, the General Assembly condemned the construction by Israel of a new settlement in Jabal Abu Ghneim to the south of occupied East Jerusalem, and reaffirmed that Israeli settlements in all the territories occupied by Israel since 1967 were illegal and an obstacle to peace. It called for the cessation of all forms of assistance and support for illegal Israeli activities in the occupied Palestinian territory, including Jerusalem, in particular settlement activities.

49. In his report submitted in accordance with General Assembly resolution ES-10/2, the Secretary-General stated that, demographically, the establishment of this settlement would have a significant effect on further advancing the forced alteration of the religious and ethnic composition of

occupied East Jerusalem. In addition, he indicated that, economically, the establishment of a settlement on the site was expected to have damaging effects on an already devastated Palestinian economy in the occupied territories, as the broader Palestinian economy would feel the immediate effects of the resulting separation of the economic hub of East Jerusalem from the towns and agricultural areas of the rest of the West Bank (see A/ES-10/6-S/1997/494, chap. III).

50. In its resolution ES-10/3 of 15 July 1997, the General Assembly condemned the failure of the Government of Israel to comply with the demands made by the Assembly at its tenth emergency special session. It reiterated that all illegal Israeli actions in occupied East Jerusalem and the rest of the occupied Palestinian territory, especially settlement activity, and the practical results thereof could not be recognized irrespective of the passage of time. The Assembly recommended to Member States that they actively discourage activities which directly contributed to any construction or development of Israeli settlements in the occupied Palestinian territory, including Jerusalem, and demanded that Israel make available to Member States the necessary information about goods produced or manufactured in the illegal settlements in the occupied Palestinian territory, including Jerusalem.

51. The confiscation by the Israeli authorities of the identity cards of Palestinian Jerusalemites continues. This policy is said to have begun in 1993 and has reportedly been intensified since the signing of the Oslo Accords. It is estimated that up to 15,000 identity cards may have been confiscated so far. Israeli officials have reportedly officially recognized in March 1997 for the first time that the confiscation of Palestinian identity cards in Jerusalem was taking place and that some 1,467 cards were confiscated by May 1997. It should be recalled that Palestinians are considered as residents, not as citizens of Jerusalem, unless they officially take Israeli citizenship. The policy concerns Palestinians who have lived outside Jerusalem or abroad for more than seven years, those who live outside the city's official municipal boundaries, as well as Palestinians with dual citizenship, but is not applied to the Jewish inhabitants of Jerusalem. It is estimated that some 60,000 to 80,000 Palestinians might be considered by the Israeli authorities as living outside the municipal boundaries of Jerusalem.

52. In order to retain their residency rights in Jerusalem, Palestinian inhabitants have to prove that the city is their "centre of life" by presenting rent slips, electricity and water bills, tax returns and birth certificates to the municipal authorities, even if Jerusalem is their city of origin. Persons unable to present proof are reportedly not eligible for health insurance and their children cannot attend government schools. The situation has been aggravated by the introduction of the requirement by the Israeli authorities that both parents of a newborn child be residents of Jerusalem for the child to be legally registered. The Special Rapporteur was informed that there are currently some 5,000 newborn children who are not registered because their parents do not meet the required criteria. In addition, a child born in the West Bank to parents who are both residents of Jerusalem may not be registered in that city. The lack of automatic registration of children has engendered serious health problems. It has been

reported that children have died because of the refusal of Israeli health-care institutions to treat them when they were told that the children did not have insurance.

53. Children in Jerusalem are said to not be part of either the Palestinian or Israeli national structure which represents a considerable problem for their sense of identity. Administratively, they belong to the Israeli system where they are not treated on an equal footing with Israeli children. It has been reported that there has been an increase in child labour among Jerusalemites who have complete access to Israel. The children, some of whom are reportedly as young as 12 and constitute cheap labour, are hired on an informal basis in factories, as agricultural and construction workers or in restaurants. The Special Rapporteur was informed that the dropout rate in schools in Jerusalem was much higher than in the West Bank. The uncertainty about their residency rights is reported to have had deep psychological effects on children. The worsening economic situation and decline in family income, especially in Jerusalem's Old City, have given rise to hyperactive children or those who are slow learners.

54. The Special Rapporteur's attention was drawn to the taxation system in East Jerusalem where the Palestinian population was described as paying a 25 per cent contribution to the municipal budget but receive only 5 per cent of the services in return. It is estimated that some 15 per cent of Jerusalem's Palestinian residents do not have proper sanitation.

55. The Special Rapporteur was informed about the arnona, i.e. the municipal real estate tax paid on the basis of the surface area owned or rented and which is often higher than the rent paid for particular premises. He was told that this tax was one of the "silent" ways in which the Israeli authorities were transferring Arab inhabitants out of Jerusalem since few shopkeepers had the money to pay the arnona. Since some 90 per cent of the customers in East Jerusalem come from the West Bank, many shops have had to close for lack of income as a result of the closures imposed on the occupied territories.

56. The situation of the Arab population of East Jerusalem is compounded further by a 35 per cent rate of unemployment. It is estimated that some 40 per cent of Arab Jerusalemites live below the poverty line. The difficult economic and social situation, lack of adequate housing, as well as house demolitions, which have been described as leading to a "quiet deportation" of Arab Jerusalemites, have in 1996 made the Jewish population of East Jerusalem a majority for the first time. It should also be recalled that since 1967, 64 per cent of East Jerusalem's territory, more than 70 square kilometres, has been confiscated.

57. The policies described above were described as "quiet deportation", "apartheid" and "ethnic expulsion". They were also said to be making native Jerusalemites stateless persons and foreigners in their own homeland.

58. A serious source of preoccupation has been the increase in the number of house demolitions in the occupied territories. In 1997, the number of Palestinian-owned houses demolished in East Jerusalem was said to be greater than the number demolished during the intifada. In August 1997 alone, 19 houses were demolished in Jerusalem. The Special Rapporteur was informed

that 60 per cent of the Palestinian population does not have adequate housing. In October 1997, the Special Rapporteur visited the so-called "Steadfastness Camp" at Al Samud in Jerusalem which is inhabited by some 500 persons from the city whose houses have been demolished and who do not wish to leave the city's official municipal boundaries.

59. The Special Rapporteur was informed of the seven phases, each one requiring an official stamp by the competent authority, through which Palestinians in Jerusalem and other parts of the occupied territories had to pass in order to obtain building permits. Building permits are reportedly not issued if a single stamp is missing.

60. A total of 80 houses owned by Arabs were demolished in East Jerusalem since the signing of the Oslo Accords in 1993. Some 118 houses were demolished in 1997 in the West Bank for lack of building permits while 7 were demolished for security reasons. An estimated 574 houses were demolished in the occupied territories since the current Israeli Government took office and eight new bypass roads have been built. The Special Rapporteur was informed that some 50,000 trees were uprooted in the occupied territories in 1997.

61. The Special Rapporteur was informed about the situation of Palestinian workers. Palestinian workers are hired as casual, day labourers and not salaried workers in Israel. There are currently some 50,000 workers from the West Bank and Gaza who have permits to work in Israel.

62. In view of the total dependence of the Palestinian economy on that of Israel as a result of the occupation and the high rates of unemployment in all parts of the occupied territories, Palestinian workers have no choice but to seek employment in Israel. As a result of the closure, Israeli employers have increasingly resorted to hiring foreign workers to substitute for Palestinians. It is estimated that there are currently some 80,000 to 90,000 legally employed foreign workers in Israel. The total number of foreign workers in Israel, including illegal ones, is estimated at some 200,000.

63. The Special Rapporteur was informed that Palestinian workers receive minimum wages in Israel but at times end up receiving less than the minimum wage, which reportedly amounts to approximately one half or one third of the wages earned by Israelis for the same work. The Special Rapporteur's attention was drawn to the fact that only some 70 per cent of workers with permits actually went to work in Israel. He was informed about the phenomenon of a network of "permit brokers" who sell three-month permits to Palestinians and who allegedly work in collusion with employers. When an employer does not want to pay a Palestinian worker, it is reported that they call the authorities at the Israeli checkpoint and claim that the person has never turned up for work. When caught by the authorities, the permits of these workers are confiscated and they have to pay a fine.

64. The Special Rapporteur was informed about an incident in which settlers brought dogs to attack Palestinian workers waiting by the side of the road. Seven persons were reportedly injured. The Israeli Defence Forces did not intervene.

65. The Special Rapporteur was informed that most Palestinians had lost faith in the peace process and that Israeli occupation of the occupied territories and its policies and practices were thwarting the development of Palestinian civil society, while waiting for it to implode. The Special Rapporteur was told that Palestinians were feeling frustration from four sources: lack of employment and, consequently, income and other social and economic factors; human rights violations perpetrated by Israel; violations perpetrated by the Palestinian Authority; and frustration stemming from the perceived inability of the United Nations to improve their plight. On the other hand, he was told that as far as Palestinians were concerned, the Israeli public was only interested in bombings and car thefts but was unaware of the real situation prevailing in the occupied territories.

II. CONCLUSIONS AND RECOMMENDATIONS

66. The overall assessment of the human rights situation in the occupied territories again remains disturbing. Some positive developments can be recognized, particularly regarding work permits and certain other economic measures as well as treatment of medical cases. The main concerns related to the Israeli Government - as described above - stay, however, unchanged. The Palestinian Authority and the Legislative Council have continued their work towards the building of civil society and rule of law. In addition to some concerns mentioned before, further efforts need to be made regarding transparency and accountability, functioning of the judiciary, as well as freedom of the press and opinion.

67. There are references - however few in number and short in substance - to human rights and the rule of law in the so-called Oslo agreements. Their implementation, or at least an ongoing follow-up discussion on their contents, is first and foremost in the hands of the parties themselves. This discussion has still to be commenced. There are two reasons for this: firstly, the peace process itself is undergoing severe difficulties and secondly, the examination and implementation of the human rights clauses in the interim agreements has not even begun. The international community, and particularly the Commission on Human Rights, has the responsibility to consider, in a holistic and action-oriented manner, the human rights situation in the area, with a view to encouraging the parties to engage themselves in a discussion on human rights.

68. During the cold war Europe was divided into two blocs. In the early 1970s a dialogue between the blocs was initiated, which led in 1975 to the signing of the Final Act of the Conference on Security and Cooperation in Europe at a summit meeting of 35 Heads of State. Later developments, including the fall of the Berlin wall and the end of the cold war, would have been unthinkable without the CSCE process initiated in Helsinki. What is the secret of the success of the CSCE (which today is called the Organization for Security and Cooperation in Europe, OSCE) and could it contribute to the quest for peace in the Middle East?

69. The CSCE Final Act consists of three parts ("Baskets"): security, economic relations and human rights. At the same time, the backbone of the Final Act was the list of 10 principles: 1. Sovereign equality, respect for the rights inherent in sovereignty; 2. Refraining from the threat or use of

force; 3. Inviolability of frontiers; 4. Territorial integrity of States; 5. Peaceful settlement of disputes; 6. Non-intervention in internal affairs; 7. Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief; 8. Equal rights and self-determination of peoples; 9. Cooperation among States; 10. Fulfilment in good faith of obligations under international law. These principles adopted almost a quarter of a century ago have retained their validity and importance in international relations even today.

70. At the outset the various parties were almost diametrically opposed on the issues regarding the Baskets. In the preparatory as well as the follow-up phases of the Final Act it became clear that progress required the acceptance of these components and principles as a whole. Security was supported by agreeing on concrete confidence-building measures, which in turn was made possible by agreeing on steps in the economic and human dimensions. Today, the interrelationship and interdependence of these elements is taken as fact and forms the basis for the ongoing deliberations among the now 53 OSCE countries.

71. In his previous reports, the Special Rapporteur has indicated that the completion of the peace process is the best way to ensure respect for human rights and the rule of law, adding, however, that "the promotion of human rights and democracy was crucial to the success of the peace process" (E/CN.4/1997/16, para. 16). The peace process, while addressing itself to the root cause of violations, the foreign occupation, still provides a framework and a guarantee for the eradication of human rights problems in the area. The peace process is in need of revival. The question is, can that happen without a more comprehensive approach? The cornerstone of sustainable peace are security, democracy, development and human rights. Without considering them together, a lasting peace is hardly attainable. With regard to human rights in particular, the early launching of a dialogue, based on facts and in this wider context, is, in the final analysis, in the interest of all parties to the conflict. Accordingly, the answer of the Special Rapporteur to the above question is an unqualified yes: the CSCE concept can be used as an example in helping to untie the knots binding parties in the Middle East, but only if the human dimension is added to the security-related and economic dimensions of the search for peace.

72. The mandate of the Special Rapporteur, as it stands, is exceptional. It puts Israel in a different position compared to other countries subjected to the scrutiny of a special rapporteur. The mandate prejudges the outcome of the investigation. The consideration of the human rights situation in the area on the basis of the mandate is limited only to Israel's violations of international law. And the mandate, unlike all the other mandates under the Commission on Human Rights, is not reviewed periodically. The main reason given for the unique mandate is the foreign occupation, which is said to constitute a unique situation in the world.

73. It has been the consistent view of the Special Rapporteur that the mandate has to be reviewed. The only reason for amending the mandate is the respect for human rights; the Special Rapporteur has to have a sufficiently broad mandate to contribute to achieving that goal. To that effect the Special Rapporteur - as an independent expert - needs to be given equal treatment with other special rapporteurs.

74. As far as the review of the mandate is concerned, the matter is in the hands of the Commission. An early consideration is to be hoped for. Meanwhile, the Special Rapporteur, the parties concerned and the Commission on Human Rights have to decide what is the best and most effective way to proceed in preventing human rights violations and improving the respect for human rights. There are basically three choices: to continue under the present mandate and follow it strictly; to consider the human rights situation broadly, exploiting all avenues in attempting to improve it; or to quit. In considering each of these alternatives one has to ask the question: What effect would it have on the human rights situation?

75. The position of the Special Rapporteur is clear: every effort has to be made to increase awareness of all aspects of human rights in order to find, together, solutions to the prevailing problems. If the mandate is imperfect in certain ways, giving up is not the answer. Widening mutual understanding and widening the common ground is the answer.

76. Full credit is to be given to the Palestinian Authority and people for their openness in discussing the human rights situation and for the cooperation extended to the Special Rapporteur. Some serious human rights concerns exist in the Palestinian society, partly based on the occupation, partly on their own. The Palestinian Authority has never referred to the mandate as a restriction in their discussions concerning the overall human rights situation in the occupied territories. On the contrary, there is a broad willingness on the part of the Authority and the Legislative Council, supported enthusiastically by the non-governmental organizations and the Palestinian people, to discuss human rights problems in a transparent manner and to find concrete ways to manifest their de facto respect for international human rights and humanitarian law. Towards that end, all contributions and support by the international community to the Palestinians in orienting their society towards democracy and rule of law are highly appreciated.

77. The Government of Israel has so far refused to receive the Special Rapporteur for reasons connected with the mandate. Israel is already an established society with a free press and other democratic structures. As such, Israel also should have the courage to look beyond the mandate, to cooperate fully with the international human rights mechanisms and to participate actively in the substantive debate in this respect.

78. The United Nations Commission on Human Rights, as the leading international body on human rights, could certainly improve its methods of work, including its agenda and the mandate of the Special Rapporteur. The human rights situation in the Middle East, however, cannot wait for the outcome of the already lengthy deliberations in this context. The human rights situation, furthermore, cannot be held hostage to the political discussions on the ground. The clear and unequivocal mandate of the Commission - which the Special Rapporteur strongly supports - is to conduct an in-depth human rights debate regarding the occupied territories, and on that basis find ways and means to improve the situation. From the debate so far it appears that the emphasis in a large number of contributions has been on the political situation. This limits the scope of the debate and demonstrates an incomplete understanding of the need for human rights to be considered in the

broader context. It is therefore indispensable that the significance of human rights and their interrelationship with other topics referred to in the discussion be further clarified.

79. The consideration of the human rights situation in the occupied territories would also greatly benefit from the discussion of other items on the agenda of the Commission on Human Rights. In the interest of achieving substantive improvement of the human rights situation, it is not conceivable to separate the item from other relevant subsequent items on the agenda. This is, undoubtedly, at the same time a question of principle, one concerning better and more efficient interaction between all items on the agenda, as well as between all parts of the United Nations human rights mechanisms in general. The consideration of the question of the Middle East, which now is as a separate country situation the first substantive item on the agenda, requires urgent attention in this respect.

80. The General Assembly at its tenth emergency session recommended (resolution ES-10/4) that the High Contracting Parties to the Fourth Geneva Convention convene a conference on measures to enforce the Convention in the occupied territories. The recommendation was to be followed up by a meeting of experts to discuss matters of a procedural and logistical nature giving due regard to the actual situation in the occupied territories relative to the Fourth Geneva Convention, as well as the legal and political implications of the conference, keeping in mind the obligations of Israel and other States parties under this Convention.

81. In his report to the Commission on Human Rights in 1997, the Special Rapporteur indicated that he was able to visit and acquaint himself with the work of the office of the High Commissioner for Human Rights in Gaza, which opened in November 1996. This technical cooperation programme, entitled "Support for the Rule of Law in Palestine", is funded under the United Nations Voluntary Fund for Technical Cooperation in the Field of Human Rights and has two international staff members and three local staff. The programme has been well received and has generated considerable enthusiasm among its beneficiaries. The Palestinian Authority has requested that it be expanded and has already included it in the Palestinian Development Plan for 1998-2000. It provides technical assistance and advisory services to the Palestinian Authority through projects focused on institution-building in the area of the rule of law such as: the establishment of a legal framework consistent with human rights standards; the development of an official human rights policy; and the strengthening of national structures for promoting and protecting human rights with special focus on the administration of justice through training for police, prison officials, judges, prosecutors and lawyers, as well as assisting the Palestinian Authority in formulating a national plan of action for human rights in Gaza and the West Bank.

82. The Special Rapporteur welcomes the expanding cooperation programmes and projects with some regional organizations and individual donors in the human rights field. The small office of the High Commissioner for Human Rights is spearheading United Nations efforts in this regard. However, since within the United Nations human rights are increasingly considered in the wider context with peace and security as well as economic and social development, and

accordingly are to be incorporated in all activities throughout the Organization, the overall contribution of the United Nations system can be expected to grow.

83. Building a civil society under occupation is a major challenge. All steps aimed at strengthening the democratic structures, including the multiparty system, should be supported. Since the peace process started and because of the closures, "people to people" contacts have undertaken a dramatic change. The concept is still viable, however, and can in the future lead to positive changes in public opinion and at the decision-making level. Meanwhile, the non-governmental organizations on both sides continue to work actively to increase awareness of the situation and identify measures to improve it.

84. In this fiftieth year of the Universal Declaration of Human Rights it should be recalled that most of the articles of the Declaration are highly relevant for the human rights situation in the occupied territories. They should be revisited by the parties concerned, not in the interest of looking for reasons for attacking the others but in the solemn spirit of the preamble of the Declaration.